



4000-01-U

DEPARTMENT OF EDUCATION

34 CFR Parts 75 and 371

[Catalog of Federal Domestic Assistance (CFDA) Number:
84.250C and 84.250D]

Final Waivers and Extensions of Project Periods; American
Indian Vocational Rehabilitation Services (AIVRS) Program

AGENCY: Rehabilitation Services Administration, Office of
Special Education and Rehabilitative Services, Department
of Education.

ACTION: Final waivers and extensions of project periods.

SUMMARY: The Secretary waives the regulations that
generally limit project periods to 60 months and that
restrict project period extensions involving the obligation
of additional Federal funds. As a result, for the 60-month
projects initially funded in fiscal years (FYs) 2007 and
2008 under the AIVRS program, the Secretary is extending
the project periods until September 30, 2014.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE
FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: August Martin, U.S.
Department of Education, 400 Maryland Avenue, SW., room

5049, Potomac Center Plaza (PCP), Washington, DC 20202-2800. Telephone: (202) 245-7410.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

On June 11, 2013, the Department published a notice in the Federal Register (78 FR 34962) inviting comments on the Department's proposal to make certain AIVRS grants effective for more than 60 months under the authority of Section 121(b)(3) of the Rehabilitation Act of 1973, as amended (the Act). The Secretary proposed to waive the requirements of 34 CFR 75.250, which generally limit project periods to 60 months, and of 34 CFR 75.261(c)(2), which restrict project period extensions involving the obligation of additional Federal funds. The Secretary also proposed to extend the project period for the 32 AIVRS grantees from October 1, 2013, through September 30, 2014. The proposed waivers and extensions would enable the 32 AIVRS grantees to request, and continue to receive, Federal funds beyond the 60-month limitation set by 34 CFR 75.250.

There are no substantive differences between the proposed and final waivers and extensions.

Public Comment

In the June 11, 2013, notice for the AIVRS program, the Secretary invited comments on the effect these proposed waivers and extensions may have on the AIVRS program and on potential applicants for grant awards responding to any new AIVRS notice inviting applications (NIA), should there be one. We received comments from three commenters, all of whom supported the Department's proposal. In addition, one of the three commenters raised four concerns.

Generally, we do not address technical and other minor changes. In addition, we do not address general comments that raise concerns not directly related to the proposed waivers and extensions.

Analysis of Comments and Changes:

Comment: One commenter raised a concern about how a recent GAO report would affect the ability of current AIVRS grantees that do not have Federal or State reservations to continue serving tribal members with disabilities. The commenter also was concerned about the "effect on the capacity and available resources for those tribes who will be determined 'ineligible' to receive RSA 121 funds to prepare its tribal members with disabilities for gainful employment." (The reference to "121 funds" refers to the section of the Act that authorizes the governing bodies and

consortia of governing bodies of Indian Tribes to receive Federal assistance in order to provide vocational rehabilitation services to American Indians with disabilities.)

Discussion: This comment addresses an issue that is outside the scope of this notice. The Department published a notice of tribal consultation and request for comment in the Federal Register (78 FR 40458) on July 5, 2013. That notice specifically invited comments on the effect of a possible change in how the Department interprets the definition of the term "reservation" that is used to determine eligibility for a grant under the AIVRS program. The comment period for this notice closed on September 3, 2013. This comment will be considered as a response to the Department's request for comment under the Notice of Tribal Consultation.

Changes: None.

Comment: The same commenter raised a concern about whether there would be adequate funds available to grant awards to continuing AIVRS programs and other eligible tribal entities should RSA hold a section 121 grant competition in FY 2014.

Discussion: The AIVRS program is funded through a set-aside of the funds appropriated for the Vocational

Rehabilitation (VR) State Grants program. Pending Congress's approval of a new budget, the Department anticipates that sufficient funds should be available to hold a grant competition in FY 2014 that would fund a minimum of 48 grants with project periods that would begin in FY 2015. This is the same estimated total number of new grants the Department would have awarded if it had conducted separate competitions in FY 2012, 2013, and 2014.

Changes: None.

Comment: The same commenter also expressed the need to provide technical assistance and training to existing AIVRS programs and interested eligible tribes in the development of AIVRS grant proposals and grant management. This commenter was particularly concerned, given the fact that RSA's current capacity-building projects that provides technical assistance to AIVRS projects and applicants ends on September 30, 2013.

Discussion: On November 8, 2012 (77 FR 66959), RSA published a request for information related to its Rehabilitation Long-Term Training program, Technical Assistance and Continuing Education, the National Clearinghouse, and Capacity Building efforts. RSA is continuing to analyze the comments we received from that notice. Funding priorities to address the need for

technical assistance, including the technical assistance needs of AIVRS projects, will be published at a later time.

Changes: None.

Waivers and Extensions

The project periods for the current 32 AIVRS grantees, selected through the grant competitions held in FY 2007 and 2008 are scheduled to end September 30, 2013. However, section 121(b)(3) of the Act provides that the Department has the authority to make an AIVRS grant effective for more than 60 months, pursuant to prescribed regulations.

Therefore, for these 32 AIVRS grantees, the Secretary waives the requirements of 34 CFR 75.250 and 34 CFR 75.261(c)(2), which limit project periods to 60 months and restrict project period extensions that involve the obligation of additional Federal funds. The Secretary also extends the current project period for the 32 AIVRS grantees funded in FY 2007 and 2008 through September 30, 2014. Finally, the Department will not announce a new AIVRS competition in FY 2013 or make new awards in FY 2013.

This action allows the 32 AIVRS grantees to request continuation funding in FY 2013. Decisions regarding annual continuation awards will be based on the program narratives, budgets, budget narratives, and program performance reports submitted by these 32 AIVRS grantees

and on the requirements of 34 CFR 75.253. Any activities to be carried out during the year of continuation awards must be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application as approved following the FY 2007 and 2008 AIVRS competitions. The FY 2007 and 2008 AIVRS NIAs will continue to govern the grantees' projects during the extension year. These current AIVRS grantees may request continuation awards in FY 2013 for project periods ending September 30, 2014.

Waiver of Delayed Effective Date

The Administrative Procedure Act (APA) requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). The Secretary has determined that a delayed effective date is unnecessary and contrary to the public interest. It is unnecessary because we received only three public comments on this action, all of which supported our proposal and we have not made any substantive changes to the proposal. It is contrary to public interest because we would not be able to make timely continuation grants to the 32 affected entities with the delay. Therefore, the Secretary waives the APA's delayed effective date provision for good cause.

Regulatory Flexibility Act Certification

The Secretary certifies that this final extension of the project period and waiver will not have a significant economic impact on a substantial number of small entities. The only entities that will be affected are the current grantees and any other potential applicants.

Paperwork Reduction Act of 1995

The final waivers and extensions of project periods do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

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Dated: September 12, 2013.

Sue Swenson,
Deputy Assistant Secretary for Special
Education and Rehabilitative Services,
delegated the authority to perform the
functions and duties of the Assistant
Secretary for Special Education and
Rehabilitative Services.

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